IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1850 OF 2005

IN

SECOND APPEAL (STAMP) NO.23417 OF 2005

Mr.Balu Namdeo Ubale & Ors. ...Applicants

Versus

Mr.Yeshwant Laxman Ubale ...Respondent

.....

Mrs.A.R.S.Baxi for Applicants.

Mr.N.V.Walawalkar i/b Mr.G.H.Keluskar for Respondent.

.....

CORAM: A.M.KHANWILKAR, J.

JANUARY 13, 2006.

P.C.

1. Heard Counsel for the parties. Reply affidavit filed by the Respondent sworn on 7th January 2006 tendered, taken on record.

2. For the reasons mentioned in Para 6 of the Application, which, to my mind, are sufficient cause, this Application should succeed.

3. It is well settled that due to mistake of the Advocate, the litigants should not suffer. It is the specific case of the Applicants that they had no intimation about the transfer of Appeal to Islampur Court and had no knowledge about the order passed by the Islampur Court. There is no reason to doubt this statement made on oath.

4. Accordingly, Application deserves to be allowed in terms of prayer clause (b). Office to register the Second Appeal and place the same for admission on 25th January 2006.

5. Status-quo granted on the earlier occasion to continue till then.

A.M.KHANWILKAR, J.